FISCAL NOTE

Bill #: SB0450 **Title:** Reform workers' compensation laws

Primary Sponsor: Cocchiarella, V **Status:** As Introduced

Sponsor signature Date Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
State Special Revenue	$1,747	$1,817
Proprietary	$1,300,000 -$1,500,000	$1,300,000 - $1,500,000
Revenue:		
State Special Revenue	$122	$9,381
Proprietary	$1,300,000 -$1,500,000	$1,300,000 - $1,500,000
Net Impact on General Fund Balance:	$0	$0

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☐ Technical Concerns
- ☒ Significant Long-Term Impacts
- ☒ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Montana State Fund

1. The National Council on Compensation Insurance, Inc (NCCI) was requested by the State Fund to complete an analysis of the cost of this legislation on Montana's workers' compensation and occupational disease system.
2. This bill proposes changes to several sections of the Montana statutes. The NCCI analysis has been divided into the various sections affected. NCCI estimates that overall system costs could increase between 1.3 percent ($2.6 million) and 1.7 percent ($3.0 million) if this bill is enacted in its current form. However, the bill also includes administrative efficiencies as noted in assumptions #4, 5, 6 and 7 below, which will offset this increase.
3. The State Fund comprises approximately half of the state's workers' compensation market. That equates to a fiscal impact on the State Fund of between $1,300,000 and $1,500,000 in each year of the biennium based on NCCI's estimate.
4. The bill incorporates language into 39-71-604 and 50-16-527, MCA, that allows for the disclosure and communication of relevant medical information between the insurer, or agent thereof, and the health care

provider. Currently, an insurer is not allowed to communicate with the treating physician without the presence of the claimant.

5. The proposal will make the process more efficient, and thereby reduce costs. The more quickly the insurer can receive information on the status of the claimant, the more quickly they can authorize certain procedures to hasten the process.
6. Sections 39-71-611 and 39-71-612, MCA, address costs and attorneys' fees. SB 450 incorporates language that would bar claims for attorney fees under common fund and other doctrines. While savings are difficult to quantify, barring attorney fees for common funds will result in administrative savings.
7. Section 39-71-703, MCA, concentrates on compensation for permanent partial disability (PPD). The proposal adds criteria for determining PPD. Specifically, a medical impairment rating must not be based exclusively on complaints of pain. Although these cases are likely to be denied compensation, costs are still incurred in defense of the claim. Therefore, some savings in benefit and loss adjustment costs may be expected if this part of the proposal is enacted. As indemnity PPD costs make up just a little under one-third of all costs, if a 1 percent savings in PPD costs is realized, then overall system costs could see a reduction of 0.3 percent.
8. Section 39-71-703, MCA, would also be modified to increase the number of weeks for calculating the PPD award from 350 to 375. NCCI estimates that overall system costs could increase between 1.6 percent ($2.9 million) and 2.0 percent ($3.6 million) if this portion of SB 450 is made into law.
9. The State Fund is funded through premiums charged to policyholders and investment income.
10. The State Fund is required in law to '….charge premiums for the classifications so that the state fund will be neither more nor less than self-supporting.' 39-71-2316(5), MCA.
11. The increase in expenditures will be factored into the ratemaking process with a subsequent increase in policyholder premiums. State Fund estimates an increase in premium rates of 1.3 percent - 1.7 percent. However, the efficiencies in assumptions #4, 5, 6 and 7 discussed above will aid in offsetting this increase through overall reduced costs of administering claims after the passage of this legislation.

Department of Labor and Industry

12. There are 1,359 claims that would be affected by Section 4 of this bill. (4.14 percent of all claims filed by injured workers result in the payment of permanent partial disability (PPD) benefits. The average number of reported claims is 32,829 each year. (32,829 x 4.14 percent = 1,359)
13. The average payment of PPD benefit payments reported by insurers to the department from FY 1998 through FY 2001 has been $6,487.
14. Section 4 increases the number of weeks by 7 percent (375/350).
15. Seven percent increase to the average benefit payment is $454. ($6,487 x 7 percent)
16. The change in PPD benefits will result in additional payments of $616,986 each fiscal year. (1,359 claims x $454 average by insurers)
17. The FY 2005 administrative assessment will be based on 3 percent of the benefits in CY 2003. With an effective date of July 1, 2003, for Section 4, six months (7/1/03 – 12/31/03) of benefit expenditures equates to $308,493 ($616,986 / 2) and assessment revenue in FY 2005 of $9,254. ($308,493 x 3 percent assessment rate)
18. The Uninsured Employer's Fund (UEF) paid $23,998 in PPD payments in FY 2002. This bill will result in an additional $1,747 ($23,998 x 7 percent plus an assumed 4 percent average weekly wage increase) in benefit payments in FY 2004 and $1,817 ($1,747 x 4 percent average weekly wage increase) in FY 2005 assuming the claim activity in these fiscal years remains the same as FY 2002 experience.
19. Using the average collection rate of 7 percent on claim payments, the UEF will collect $122 ($1,747 x 7 percent) in FY 2004 and $127 (1,817 x 7 percent) in FY 2005 in reimbursements from uninsured employers for the additional benefit payments.

20. The Subsequent Injury Fund will not pay additional PPD benefits until FY 2006 as liability to the fund does not accrue until after an insurer has paid two years of wage loss benefits.

FISCAL IMPACT:

	FY 2004 Difference	FY 2005 Difference
Montana State Fund		
Expenditures:		
Benefits	$1,300,000 - $1,500,000	$1,300,000 - $1,500,000
Funding of Expenditures:		
Proprietary (06)	$1,300,000 - $1,500,000	$1,300,000 - $1,500,000
Revenues:		
Proprietary (06)	$1,300,000 - $1,500,000	$1,300,000 - $1,500,000
Department of Labor and Industry		
Expenditures:		
Benefits (UEF)	$1,747	$1,817
Funding of Expenditures:		
State Special Revenue (02) (UEF)	$1,747	$1,817
Revenues:		
State Special Revenue (02)	$122	$9,381
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
State Special Revenue (02)	($1,625)	$7,564
Proprietary (06)	$0	$0

LONG-TERM IMPACTS:

1. There will be additional permanent partial disability benefits of about $617,000 each fiscal year starting in FY 2006 paid by the Department of Labor and Industry.